

GRB SDCJ Preliminary Report

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Justice In South Dakota: Does Race Make A Difference?

In 2001, Gov. Bill Janklow contracted the Government Research Bureau (GRB) at the University of South Dakota to examine disparities against American Indians in the South Dakota criminal justice system. The objective of the research was to examine the state's judicial, investigations, and corrections empirical data for instances of disparities between Whites and American Indians. The researchers have concluded that substantial gaps in the data require that they acquire additional information to compare individuals with similar histories, backgrounds and capacities, and then examine whether these are the deciding factors in the disposition of cases, or if it is race. Their goal is to complete their next round of work by December 2003.

The question of whether a dual system of justice exists is the main research question of the study by the Government Research Bureau. The researchers have been after this issue for the past year and a half, grappling with three difficult datasets, which were not designed to be analyzed individually, let alone together as one detailed record of the criminal justice process. Further, substantial gaps in the data prohibited researchers from making an accurate examination of the research's main question of whether race makes a difference. To fill these gaps, the researchers seek to acquire additional information from state's attorneys and local law enforcement on individual criminal histories, personal information about economic and family backgrounds, and information about the race of victims and impact on victims.

Government Research Bureau SD Criminal Justice Preliminary Report

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IMMEDIATE RELEASE

January 2, 2004

South Dakota Supreme Court Announces Creation of Equal Justice Commission

Today Chief Justice David Gilbertson announced the creation of a Commission to identify any possible areas in the South Dakota Judicial System in which there is a perception of unfairness based on race or ethnicity. The Supreme Court appointed Justice John K. Konenkamp and former Chief Judge Patrick A. Lee of the Oglala Sioux Tribal Court to co-chair the new Commission. The eleven member Equal Justice Commission will hold public hearings and make final recommendations to the South Dakota Supreme Court. Composed of citizens, lawyers, and judges, the Commission's members will be appointed by the Supreme Court, the Governor, and the President of the State Bar. The remaining members will be appointed in the next few weeks.

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

ORDER
FOR
EQUAL JUSTICE COMMISSION

Whereas the presence of racial or minority discrimination and bias impairs the imposition of justice, and

Whereas the South Dakota Unified Judicial System is constitutionally required to dispense justice fairly and equitably to all persons involved with the South Dakota state court system, and

Whereas the eradication of any discrimination and bias is our goal in the administration of justice,

Now, we, the Justices of the South Dakota Supreme Court, hereby create the Equal Justice Commission to proceed as directed below.

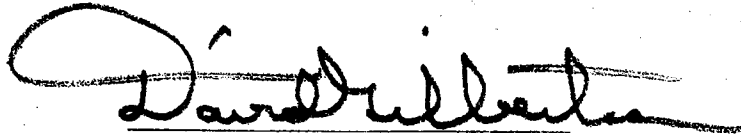
ORDERED that an eleven member Equal Justice Commission, composed of citizens, judges, and lawyers, shall be created with consultation from the Governor and the President of the State Bar of South Dakota; the Commission will have co-chairpersons, Justice John K. Konenkamp and retired Oglala Sioux Tribal Court Chief Judge Patrick A. Lee; the Commission shall perform the following:

1. Identify areas in which there is the perception of unfairness based on race, ethnicity, or minority status and the possible role of state courts and attorneys in creating unfairness;
2. Consider any available data and public input on bias in the South Dakota state judicial system and its dispensation of justice;
3. Formulate and propose guidelines, standards, and procedures to ensure equal justice in South Dakota's judicial system, including recommending court performance standards and empirical methods to measure whether those standards are being met;

4. Explore ways to promote better understanding of ethnic and racial minorities appearing in the judicial system;
5. Recommend appropriate judicial and legal education course materials and programs on equality, including appropriate instruction to be included in South Dakota's new judge and new lawyer orientation programs;
6. Serve as a resource to the media;
7. Advise the South Dakota Supreme Court on possible needed legislation to be submitted through the Unified Judicial System to further promote equal justice in the state judicial system;
8. Recommend a mechanism for the processing of complaints about biased behavior of judges, lawyers, and court personnel;
9. Collaborate with the Judicial Qualifications Commission to encourage greater racial and gender diversity in the appointment of justices, circuit judges, and magistrates;
10. Act as a resource to the South Dakota State Bar and the USD Law School in recommending teaching, curricula, and continuing education to promote the elimination of biased conduct on the part of attorneys; and
11. Within eighteen months, submit a report to the South Dakota Supreme Court stating the findings of the Commission and its recommendations.

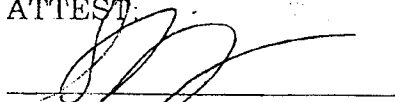
DATED at Pierre, South Dakota, this 2nd day of January, 2004.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEAL)

PARTICIPATING: Chief Justice David Gilbertson, Justices Richard W. Sabers,
John K. Konenkamp, Steven L. Zinter and Judith K. Meierhenry.

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

JAN 02 2004



Clerk